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March 21, 2007

Steve Johnson
Department of Natural Resources and Environmental Control
(By hand)

Dear Steve:

Our position on the remediation plan for the 2 parcels known as the Hercules Tract is that insufficient work has been done to identify all contaminants on the site. Therefore, no remediation plan can be completed until further testing is done.

Our technical experts all agree that dioxin must be present on the site. The records of applications of pesticides and herbicides show that the types that contained excessive amounts of dioxin were used on the golf course as late as 1991. While the pesticides and herbicides will have disappeared by now, dioxin does not have the same half life. It is very dangerous, and you must deal with its presence so close to residences.

We are not sure how this oversight occurred, but you must take the time to see that it is corrected. If dioxin is present in a wide area, remediation will be more difficult.

This is not the only insufficiency as far as testing goes. Some soil samples that were taken close to residences were never tested. In other areas, there are large amounts of ground where no testing at all was done. Some greens were not tested (8 for example) and the roughs were not in many places. That is not sensible given that that is where the weeds would have been cropping up over the years it was a golf course, therefore, those areas would have been treated with pesticides and herbicides also.

We do not think one can conclude that all the fairways are at safe levels of pollutants given that run-off and dust from mowing can move around soil. The most obvious failure to test is seen in the large woods south of Tall Trees. No testing was done where houses are planned. We will not accept this lack of concern about an area that was too large to be ignored. If a bulldozer is going in there, test samples must be taken first.

Someone concluded that the woods on the other side of Brandywine Springs Manor have no elevated levels of material that indicate pesticides were used in them, but they do have excessive levels of some minerals. We believe that Hercules may have tested explosives in that area, but that is only based on hearsay. We noted at the last hearing that more tests were done in those areas, but again, no tests were done for dioxins or compounds.

The lack of testing for compounds is a serious problem in terms of all the tests. If Brightfields still has the soil samples, it would be relatively easy to finish the work.

Further, Hercules' remaining parcel was not subjected to any testing. Is anyone at DNREC willing to have people live that close to what may very likely be a highly contaminated area over by the Red Clay Creek and the unnamed creek? There are hot spots all over the side of the property line to be developed. We think testing on their side

is necessary also. DNREC has been trying to get the Research Center cleaned up, and we thank you for that. This could be a part of that work.

Brightfields has offered to place air quality monitors around the perimeter of the work site, but there is no margin for error. Houses are right on top of the spots where digging must take place. Air monitors won't help when a release gets loose. We appreciate the offer because they will create a record for litigation purposes if releases do occur. I am enclosing a GIS photo of the course where it meets the line of houses on the back side of Brandywine Springs Manor. I have marked the test holes that showed excessive levels of contaminants. You can see that the children in these houses will be greatly endangered by the work if it is not completely controlled.

Brightfields offered "containment" in their plan. That was not clarified, but we hope they recognize the need to do the digging under cover. If not, that is unacceptable. There may be parts of the course where the elevations are not so high that tent containment would be necessary to protect against arsenic, but do they correlate with the presence of dioxins? I colored one of their maps of samples to show where the worst spots are, so it becomes clear that some work might be done in a localized way if dioxins are not pervasive. If they are, work under tents will have to be done in all areas.

We recognize that the number of exposures as well as the amount of toxic material that is ingested determines whether the exposed person will suffer long term or short terms effects and whether they will have neurological damage or contract some form of cancer. (The ASTDR made a presentation to us a couple of years ago on this subject.) But if these materials are spread all over a person's yard and house by dust or soaked into their yard by run-off, the exposure will be repeated time and again. Gardeners will find themselves at high risk. The cost of cleaning up those houses and yards will be high, and no provision has been discussed for compensating homeowners should that become necessary. A plan should contain default protection in the event of failure.

We recognize that arsenic does not become easily airborne, but in the presence of lead and iron, which are on the course in large amounts, it mobilizes easily, and water can carry it. Anyone who has used a garden hose can tell you that misting rising dust could allow wind to carry it away. We do not like the misting idea. If you do not demand work under cover, summer weekends when the site dries out, dust will blow away.

Brightfields qualified the containment offer by saying runoff would be controlled as required in the rules and regulations for site maintenance of New Castle County. They might as well have said nothing will be done. Anyone who has observed a building site in this county where bulldozers are at work can tell you that the green plastic fences are worthless almost as soon as they are erected. They are inadequate to truly control something dangerous. The regulation requiring them was designed to make an effort to contain soil erosion and protect the creeks, not to contain seriously dangerous chemicals. There are wetlands and natural springs on the parcels as well as the creeks that lead to highly populated areas downstream, so further contaminating water is something that should be avoided. The sediment samples have shown that toxic materials have been deposited on the banks already. Children are attracted to the creeks near them, and they do not understand the need to stay away. This is so sad that our creeks are so dangerous children need to be kept away, but the harm is real. We should not permit them to be made worse.

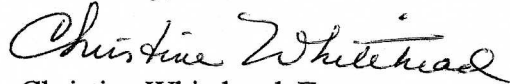
Only digging trenches to control run-off will work. The run-off will need to be sent to a pond that can be placed away from residences and sheltered while in use. Whether contaminants can be extracted from it and hauled away, I do not know, but somehow they must be transported safely from the site.

We have said to you in the past, and Brightfields has included in the plan, that washing down trucks leaving the site will be necessary. A staging area with trenches around it is clearly a good idea. The existing tennis courts could serve that purpose. Dump trucks are notoriously leaky. Soil with such contaminants cannot be allowed to escape on the roads. One of our scientists suggested that the worst material be enclosed in boxes of some kind before being loaded on trucks. That should be considered.

Neither the Civic League for New Castle County nor the Milltown-Limestone Civic Alliance and its Working Group on the Hercules Tract opposes this development if the land can be remediated safely. However, if Toll Brothers believes it can cut corners to spend less money on remediation at the risk of the safety of the neighbors and those downstream, we will fight.

We look to DNREC for protection.

Yours truly,

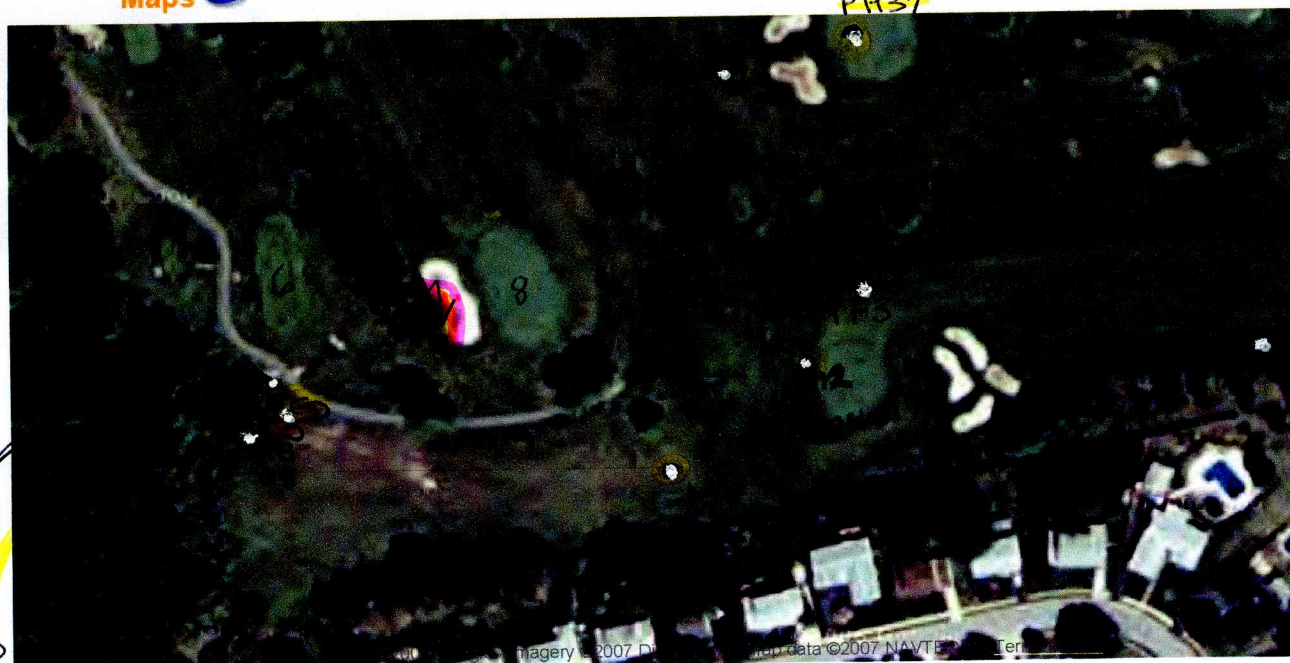
A handwritten signature in cursive script that reads "Christine Whitehead".

Christine Whitehead, Esq.

Environmental Chair, Civic League of NCC
Attorney for the MCLA Working Group on
the Hercules Tract

enc

Elevation here 200'

Address [redacted]
Wilmington, DE 19808

SB5

180'

Groundwater & Surface Water

- Chloroform in all groundwater samples (MW)
- Chlorodane 1,3,4,5,8,9,10 Surface Water Samples (high volatility)

MW 945- antimony, arsenic, iron, lead, manganese, thallium, chloroform

MW 147- " " " " " " " " and Delta BAC (m+7)

SB5 - Vanadium, aluminum, iron (low), manganese

SB8 - all above except vanadium, arsenic (13.9)

SB6 - " "

Sediment Problems:

SW/SED 1 & 2 } arsenic, barium, cyanide, fluorene, iron, (benzodanthracene)
 & 5 } (benzopyrene) vanadium, manganese, chlorodane (0.5 alpha)
 (no elevated) (0.2 beta)
 (SED03)

SOIL:

PH19 - OK PH59 - arsenic (84.9) PH50 - arsenic (14.7)

TF3 arsenic (13.2), chlordane (4.9)

PH12 arsenic (390) chlorodane (950) dieldrin (23) lead (2000)

PH37 Chlorodane (240) arsenic (73.8)

PH51/50 much not analyzed; (14.7 arsenic on 51)

PH61 " " "

<http://maps.google.com/>

3/17/2007

8 is an untested Green! 6 is an untested tee.